IN THE HIGH COURT OF JUDICATURE AT PATNA
SA No.326 of 2004
LAKSHMI THAKUR & ORS
Versus
KAMAL PURBE @ NARAYAN PURBE & ORS

04/ 17.07.2008 Heard learned counsel for the appellants and learned counsel for respondent no.1.

This second appeal arises out of Title Suit No. 49 of 1992 which was filed by plaintiffs-respondents for declaration of their title and confirmation of possession with respect to the suit land and for permanent injunction and also for other ancillary reliefs.

The said suit was decreed by the learned Munsif-I, Madhubani vide judgment and decree dated 30.04.1996 which was challenged by the defendants in Title Appeal No. 30 of 1996 which was dismissed by learned Additional District Judge-cum-Fast Track Court No.4, Madhubani vide judgment and decree dated 22.07.2004. The defendants-appellants have filed the instant second appeal challenging the said judgments and decree of the learned courts below.

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The learned courts bellow have considered the pleadings and evidence and have also come to the specific findings that since the father of the plaintiff had made wrong statements with regard to the land of deity, the question of res-judicata does not arise. It was held that the alleged admission of plaintiff's father in Title Suit No. 07 of 1975 was based on untrue facts. It was also held by the learned courts below that the plaintiffs had succeeded in proving their right, title and possession over the suit land and that the deed dated 03.05.1969 executed by Nageshwari Devi in the name of Ram Lakshman Janki was valid, operative and for consideration. The learned courts below also

relied on the settled principle of law that ordinarily title carries with it, the possession and burden lies on the person, who claims the title by adverse possession but the defendants–appellants could not produce any document or evidence in respect of their possession over the disputed lands and hence, their claim of adverse possession was rightly rejected.

In the aforesaid facts and circumstances, the impugned judgments and decree of the learned courts below are covered by findings of fact and there is no occasion for this court to interfere. This court does not find any substantial question of law involved in the instant second appeal, which is accordingly dismissed.

harish/ **(S.N.Hussain, J.)**

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